

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments are needed to align reimbursement with new billing code definitions caused by conversion of atypical, state-created codes to nationally recognized codes. Current unit rates have been mathematically adjusted to match the new unit rate (i.e., an hourly rate was divided by 4 to create a 15-minute rate). In addition, these amendments increase rates to equalize service rates across programs (i.e., prevocational habilitation from \$9.91 to \$13.47 per hour). Finally, these amendments change the basis of reimbursement for respite from a retrospectively limited prospective rate to a fee schedule.

The Department has adopted these amendments pursuant to direction from the Centers for Medicare and Medicaid Services (CMS) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which states that no state Medicaid department can use atypical billing codes. Most of the codes used to bill waiver services to the Iowa Medicaid Enterprise (IME) are atypical and therefore need to be changed to standardized healthcare common procedure coding system (HCPCS) or current procedural terminology (CPT) codes. Those standardized codes have different unit descriptions from the unit descriptions currently used by the IME. These amendments to rule 441—79.1(249A) cause the rates of reimbursement to match the unit definitions of the services. For example, the rate of reimbursement for a service that is now defined as 15 minutes will be expressed as a 15-minute rate instead of as an hourly rate.

The Department has determined that moving the retrospectively limited prospective rates for respite to a fee schedule will increase standardization within the service since many respite providers are already paid by fee schedule.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin as **ARC 0588C** on February 6, 2013. That Notice was a companion to the Notice of Intended Action to amend Chapter 78 that was published as **ARC 0589C** on the same date (see Adopted and Filed **ARC 0709C** herein). Together, those Notices were the second set of changes to the unit time and rate definitions for home- and community-based services (HCBS) waiver and habilitation services. The first set was published in the Iowa Administrative Bulletin as **ARC 0567C** and **ARC 0568C** on January 23, 2013 (see Adopted and Filed **ARC 0707C** and **ARC 0708C** herein).

The Department received six responses from interested parties on the proposed amendments.

All six of the respondents expressed concern about how the units of service specifically relating to half-day, full-day, and extended-day rates would impact the respondents’ individual situations. They requested that the Department redefine the definition of a full day of service to be 4.01 to 8 hours per day instead of the 4.25 to 8 hours proposed by the Department. If a member determines that the member needs and wants full days of service, the provider will still have to plan for days when the member does not receive full days because of a medical appointment or some other appointment or issue. In this case, a number of hourly units for prevocational and 15-minute units for day habilitation will have to be planned for to take into account data available on attendance. The problem then becomes if a member does not get 4.25 hours of service to bill a full day, then the provider has to bill the hourly unit of service or 15-minute unit of service instead. The provider in this case will get shorted on reimbursement when compared to the current rules. The provider plans staffing based on the wants and needs of members. Providers cannot just send staff home if members do not come for services, leave early, or do not get a full day in when it is planned. Providers cannot afford a cut in service reimbursements. This change makes an already complicated system more complicated.

The Department’s response to the comments is that the definitions of half-day, full-day, and extended-day services have been adopted for all waiver services that offer these time frames. Situations will always exist where the provider has made plans for the member, but the member is not available

and, therefore, no staff is needed or billable. The intention of these amendments is to limit the amount of money paid by the IME when no service is provided.

IME staff devised the service time frames to more closely align IME payments with service provision. Currently, a provider could provide service for only one hour, but charge a rate to the IME based upon four hours of service. Under the adopted amendments, if the member receives only one hour of service, then the IME pays for one hour of service. In addition, the existing rules have overlapping times, but with the adoption of these amendments, there is no question as to whether four hours is billed as a half day or a full day.

The time frames were derived using the 15-minute rounding rules. The rounding rules state that for a 15-minute unit of service, 7 or fewer minutes of service are rounded down to a zero unit, and 8 to 14 minutes of service are rounded up to a full billing unit. Over time, providers should be rounding down as often as rounding up. Carrying the rounding rules over to the longer time frames lends a consistency to the reasoning behind the rounding of service time.

In regard to service planning, each provider and case manager will need to more closely plan for each member. Each member's plan may be comprised of any combination of the time frame options (15 minutes, half day, full day, or extended day). Also, at the end of the month, the provider may contact the case manager to alter the service plan to match actual service provision, if applicable. The purpose of the waiver is to provide services to meet the needs of the member in the most efficient manner.

The only additional comment from a respondent was a question about whether rules will be written to specify the maximum number of service units a month. Currently, Informational Letter 1164 specifies no more than 31 units a month. Of course the units of allowable services per month will have to be reviewed and changed since half days of service are going away.

The Department's response to the additional query by the respondent is that the informational letter refers only to half-day and full-day units. These amendments indicate that a member can have 15-minute or hourly units (depending upon the service) and daily units. The limit to the number of full-day units billable per month will continue to be limited as described in the informational letter. The number of 15-minute or hourly units is already included in these amendments.

No changes were made to these amendments as the result of comments received by the Department during the comment period. However, a technical correction has been made. An existing cross reference that was inadvertently omitted from the Notice has been incorporated in the supported community living provider category under paragraph "24" in Item 1.

The Council on Human Services adopted these amendments on April 10, 2013.

These amendments do not provide for waivers in specified situations because CMS has not indicated that any state can be exempt from the guidelines relating to atypical billing codes. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective July 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule **79.1(2)**, provider category “HCBS waiver service providers,” paragraphs “6,” “18,” “19,” “23,” “24,” “26” and “28,” as follows:

| Provider category                 | Basis of reimbursement  | Upper limit  |
|-----------------------------------|---|--|
| 6. Respite care when provided by: |   |  |
| Home health agency:               |   |  |
| Specialized respite               | Cost-based rate for nursing services provided by a home health agency | Effective <del>4/1/13</del> 7/1/13, provider’s rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, converted to <del>an hourly</del> a 15-minute rate, not to exceed \$302.88 per day. |

| Provider category                        | Basis of reimbursement  | Upper limit   |
|--|---|---|
| Basic individual respite                 | Cost-based rate for home health aide services provided by a home health agency            | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, <u>converted to an hourly a 15-minute rate</u> , not to exceed \$302.88 per day. |
| Group respite                            | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed \$302.88 per day.  |
| Home care agency:<br>Specialized respite | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$34.43 per hour</del> <u>\$8.61 per 15-minute unit</u> , not to exceed \$302.88 per day.  |
| Basic individual respite                 | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$18.37 per hour</del> <u>\$4.59 per 15-minute unit</u> , not to exceed \$302.88 per day.  |
| Group respite                            | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed \$302.88 per day.  |
| Nonfacility care:<br>Specialized respite | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$34.43 per hour</del> <u>\$8.61 per 15-minute unit</u> , not to exceed \$302.88 per day.  |
| Basic individual respite                 | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/4/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$18.37 per hour</del> <u>\$4.59 per 15-minute unit</u> , not to exceed \$302.88 per day.  |

| Provider category   | Basis of reimbursement  | Upper limit  |
|---|---|--|
| Group respite   | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed \$302.88 per day.   |
| Facility care:  |   |  |
| Hospital or nursing facility providing skilled care                     | Fee schedule  | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed the facility's daily Medicaid rate for skilled nursing level of care. |
| Nursing facility  | Fee schedule  | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed the facility's daily Medicaid rate.                                   |
| Camps   | <del>Retrospectively limited prospective rates. See 79.1(15)</del><br><u>Fee schedule</u> | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed \$302.88 per day.   |
| Adult day care  | Fee schedule  | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed rate for regular adult day care services.                             |
| Intermediate care facility for persons with an intellectual disability  | Fee schedule  | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed the facility's daily Medicaid rate.                                   |
| Residential care facilities for persons with an intellectual disability | Fee schedule  | Effective <del>4/1/13</del> <u>7/1/13</u> , provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed contractual daily rate.   |

| Provider category               | Basis of reimbursement                                  | Upper limit  |
|---------------------------------|---|--|
| Foster group care               | Fee schedule  | Effective <del>4/1/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed daily rate for child welfare services.  |
| Child care facilities           | Fee schedule  | Effective <del>4/1/13</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, converted to a 15-minute rate. If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> , not to exceed contractual daily rate.   |
| 18. Supported community living  | Retrospectively limited prospective rates. See 79.1(15) | <del>Effective 4/1/13</del> For intellectual disability and brain injury waiver effective 7/1/13: <del>\$35.68 per hour</del> <u>\$8.92 per 15-minute unit</u> , not to exceed the maximum daily ICF/ID rate per day in effect 6/30/12 plus 2%.  |
| 19. Supported employment:       |   |  |
| Activities to obtain a job:     |   |  |
| Job development                 | Fee schedule  | Effective 1/1/13, provider's rate in effect 6/30/12 plus 2%. If no 6/30/12 rate: \$927.18 per unit (job placement). Maximum of two units per 12 months.  |
| Employer development            | Fee schedule  | Effective 1/1/13, provider's rate in effect 6/30/12 plus 2%. If no 6/30/12 rate: \$927.18 per unit (job placement). Maximum of two units per 12 months.  |
| Enhanced job search             | Retrospectively limited prospective rates. See 79.1(15) | Effective <del>4/1/13</del> 7/1/13: <del>\$35.68 per hour</del> <u>\$8.92 per 15-minute unit</u> . Maximum of <del>26 hours</del> <u>104 units</u> per 12 months.  |
| Supports to maintain employment | Retrospectively limited prospective rates. See 79.1(15) | Effective <del>4/1/13</del> 7/1/13: <del>\$35.68 per hour</del> <u>\$8.92 per 15-minute unit</u> for all activities other than personal care and services in an enclave setting. <del>\$20.24 per hour</del> <u>\$5.05 per 15-minute unit</u> for personal care. <del>\$6.31 per hour</del> <u>\$1.58 per 15-minute unit</u> for services in an enclave setting. \$2,941.38 per month for total service. Maximum of <del>40</del> <u>160</u> units per week. |
| 23. Prevocational services      | Fee schedule  | County contract rate or, in absence of a contract rate, effective <del>4/1/13</del> 7/1/13: Lesser of provider's rate in effect 6/30/12 plus 2%, \$49.18 per day, <del>\$24.59 per half day</del> , or \$13.47 per hour.   |

| Provider category                                 | Basis of reimbursement   | Upper limit  |
|---|--|--|
| 24. Interim medical monitoring and treatment:     |  |  |
| Home health agency (provided by home health aide) | Cost-based rate for home health aide services provided by a home health agency | Effective <del>4/4/43</del> 7/1/13: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, <u>converted to an hourly a 15-minute rate</u> .  |
| Home health agency (provided by nurse)            | Cost-based rate for nursing services provided by a home health agency          | Effective <del>4/4/43</del> 7/1/13: Lesser of maximum Medicare rate in effect 11/30/09 plus 2%, <u>converted to a 15-minute rate</u> , or maximum Medicaid rate in effect 6/30/12 plus 2%, <u>converted to an hourly a 15-minute rate</u> .  |
| Child development home or center                  | Fee schedule   | Effective <del>4/4/43</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$13.38 per hour</del> <u>\$3.35 per 15-minute unit</u> .   |
| Supported community living provider               | Retrospectively limited prospective rate. See 79.1(15)                         | Effective <del>4/4/43</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$35.68 per hour</del> <u>\$8.92 per 15-minute unit</u> , not to exceed the maximum ICF/ID rate per day in effect 6/30/12 plus 2%.  |
| 26. Day habilitation                              | Fee schedule   | Effective <del>4/4/43</del> 7/1/13: County contract rate <u>converted to a 15-minute or daily rate</u> or, in the absence of a contract rate, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute or daily rate</u> . If no 6/30/12 rate: <del>\$13.47 per hour; \$3.37 per 15-minute unit \$32.79 per half-day</del> , or \$65.58 per day. |
| 28. Family and community support services         | Retrospectively limited prospective rates. See 79.1(15)                        | Effective <del>4/4/43</del> 7/1/13, provider's rate in effect 6/30/12 plus 2%, <u>converted to a 15-minute rate</u> . If no 6/30/12 rate: <del>\$35.68 per hour</del> <u>\$8.92 per 15-minute unit</u> .   |

ITEM 2. Amend subrule **79.1(2)**, provider category "Home- and community-based habilitation services," paragraphs "2" to "5," as follows:

| Provider category          | Basis of reimbursement                   | Upper limit  |
|----------------------------|--|--|
| 2. Home-based habilitation | Retrospective cost-related. See 79.1(24) | Effective 7/1/13: <del>\$46.70 per hour</del> <u>\$11.68 per 15-minute unit</u> , not to exceed \$6,083 per month, or \$200 per day. |

| Provider category               | Basis of reimbursement                   | Upper limit   |
|---------------------------------|--|---|
| 3. Day habilitation             | Retrospective cost-related. See 79.1(24) | <del>Effective 7/1/13: \$13.21 per hour; \$3.30 per 15-minute unit \$32.15 per half day; or \$64.29 per day.</del>  |
| 4. Prevocational habilitation   | Retrospective cost-related. See 79.1(24) | <del>Effective 7/1/13: \$9.91 \$13.47 per hour; \$24.11 per half day; or \$48.22 per day.</del>   |
| 5. Supported employment:        |  |   |
| Activities to obtain a job:     |  |   |
| Job development                 | Fee schedule                             | \$909 per unit (job placement). Maximum of two units per 12 months.   |
| Employer development            | Fee schedule                             | \$909 per unit (job placement). Maximum of two units per 12 months.   |
| Enhanced job search             | Retrospective cost-related. See 79.1(24) | <del>Effective 7/1/13: Maximum of \$34.98 per hour \$8.75 per 15-minute unit and 26 hours 104 units per 12 months.</del>  |
| Supports to maintain employment | Retrospective cost-related. See 79.1(24) | <del>Effective 7/1/13: \$6.19 per hour \$1.55 per 15-minute unit for services in an enclave setting; \$19.81 per hour \$4.95 per 15-minute unit for personal care; and \$34.98 per hour \$8.75 per 15-minute unit for all other services. Total not to exceed \$2,883.71 per month. Maximum of 40 160 units per week.</del> |

ITEM 3. Amend subrule 79.1(15) as follows:

**79.1(15)** *HCBS retrospectively limited prospective rates.* This methodology applies to reimbursement for HCBS supported community living; HCBS family and community support services; HCBS supported employment enhanced job search activities; and HCBS interim medical monitoring and treatment when provided by an HCBS-certified supported community agency; ~~HCBS respite when provided by nonfacility providers, camps, home care agencies, or providers of residential-based supported community living; and HCBS group respite provided by home health agencies.~~

a. and b. No change.

c. *Prospective rates for new providers other than respite.*

(1) to (3) No change.

d. *Prospective rates for established providers other than respite.*

(1) to (5) No change.

e. ~~*Prospective rates for respite.* Prospective rates for respite shall be agreed upon between the consumer, interdisciplinary team and the provider up to the maximum, subject to retrospective adjustment as provided in paragraph "f."~~

f. and g. No change.

ITEM 4. Amend paragraph **79.1(24)**“a” as follows:

a. *Units of service.*

(1) No change.

(2) A unit of home-based habilitation is ~~one hour (for up to 7 hours per day)~~ a 15-minute unit (for up to 31 units per day) or one day (for 8 or more hours per day), based on the average hours of



service provided during a 24-hour period as an average over a calendar month. Reimbursement for ~~hourly~~ services shall not exceed the upper limit for daily home-based habilitation services set in 79.1(2).

1. The daily unit of service shall be used when a member receives services for 8 or more hours provided during a 24-hour period as an average over a calendar month. The ~~hourly~~ 15-minute unit shall be used when the member receives services for ~~1 to 7 hours~~ 1 to 31 15-minute units provided during a 24-hour period as an average over a calendar month.

2. No change.

(3) A unit of day habilitation is ~~an hour, a half-day (1 to 4 hours),~~ 15 minutes (up to 16 units per day) or a full day (4 ~~4.25~~ to 8 hours).

(4) A unit of prevocational habilitation is ~~an hour, a half-day (1 to 4 hours),~~ (for up to 4 units per day) or a full day (4 ~~4.25~~ to 8 hours).

(5) A unit of supported employment habilitation for activities to obtain a job is:

1. One job placement for job development and employer development.

2. ~~One hour~~ A 15-minute unit for enhanced job search.

(6) A unit of supported employment habilitation supports to maintain employment is ~~one hour~~ a 15-minute unit.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 5/1/13.